

## Federal Communications Commission

DA 01-1363

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of )  
)  
Request for Review of the )  
Decision of the )  
Universal Service Administrator by )  
)  
Ouray School District R-1 )  
Ouray, Colorado )  
)  
Federal-State Joint Board on )  
Universal Service )  
)  
Changes to the Board of Directors of the )  
National Exchange Carrier Association, Inc. )

2002 JUN -8 P 1:04

File No. SLD-183662

CC Docket No. 96-45

CC Docket No. 97-21 ✓

**ORDER****Adopted: June 6, 2001****Released: June 7, 2001**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division (Division) has under consideration a Request for Review filed by Ouray School District R-1 (Ouray), Ouray, Colorado.<sup>1</sup> Ouray requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company to deny Ouray's application for discounted services under the schools and libraries universal service support mechanism.<sup>2</sup> For the reasons set forth below, we deny the Request for Review and affirm SLD's denial of Ouray's application.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library, or consortium that includes eligible schools or libraries must seek

<sup>1</sup> Letter from Heidi McDuffie, Ouray School District R-1, to the Federal Communications Commission, filed March 13, 2001 (Request for Review).

<sup>2</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Nancy Dixon, dated April 28, 2000 (Funding Commitment Decision Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Nancy Dixon and Heidi McDuffie, dated February 27, 2001 (Administrator's Decision on Appeal).

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

competitive bids for all services eligible for support.<sup>4</sup> In accordance with the Commission's rules, an applicant must file with SLD, for posting to its website, an FCC Form 470 requesting services.<sup>5</sup> The applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471 requesting support for the services ordered by the applicant.<sup>6</sup> Further, the instructions for the FCC Form 471 state that the date of signature for the FCC Form 471 "CANNOT be earlier than the 29th day following the posting of the associated FCC Form 470 to the [SLD] Web Site."<sup>7</sup>

3. Upon review of the record, the Division concludes that SLD correctly denied Ouray's request for support. Despite the clear requirements of our rules that applicants may not sign the FCC Form 471 before the allowable contract date, Ouray signed and dated the form on January 12, 2000, two days prior to the allowable contract date of January 14, 2000.<sup>8</sup> Ouray does not deny that the form was signed prior to the allowable contract date, but argues only that the individual responsible for signing it would have been unavailable on January 14, 2000.<sup>9</sup> We do not find this to be valid grounds for an appeal.

4. A signature date on an FCC Form 471 or on a service provider agreement that predates the expiration of the 28-day posting period indicates, absent other evidence to the contrary, that the applicant failed to wait 28 days before entering into an agreement with a service provider and therefore violated the Commission's competitive bidding rules.<sup>10</sup> The Common Carrier Bureau has therefore consistently denied requests for review by applicants that had similarly violated the Commission's competitive bidding rules.<sup>11</sup> In light of the thousands of

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<sup>4</sup> 47 C.F.R. §§ 54.504, 54.511(c).

<sup>5</sup> See Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (FCC Form 470).

<sup>6</sup> 47 C.F.R. § 54.504(c); see Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471).

<sup>7</sup> Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (December 1998) at 24 (FCC Form 471 Instructions).

<sup>8</sup> See FCC Form 471, Ouray, filed January 19, 2000; FCC Form 470, Ouray, filed December 17, 1999; Request for Review at 2.

<sup>9</sup> Request for Review at 2.

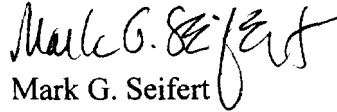
<sup>10</sup> See *Request for Review by Minor High School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-139210, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 13790, 13792, para. 5 (Com. Car. Bur. 2000).

<sup>11</sup> See, e.g., *Request for Review by Cathedral Grade School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-87608, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2953 (Com. Car. Bur. rel. December 21, 1999); *Request for Review by Currituck County Schools Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-111040, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 5564 (Com. Car. Bur. 2000); *Request for Review by Gustine Independent School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-108651, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2534 (Com. Car. Bur. rel. November 16, 1999).

applications that SLD must review and process each year, we find that it is administratively necessary to require an applicant to be responsible for carefully following program rules. The Division, therefore, denies Ouray's Request for Review.

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Ouray School District R-1, Ouray, Colorado, on March 13, 2001, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau